

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

IN-N-OUT BURGERS,

Plaintiff/Counter-Defendant,

Civil Action No. 20-11911

v.

Hon. Robert H. Cleland

DOLL N BURGERS LLC, et al,

Magistrate Judge Anthony P. Patti

Defendants/Counter-Plaintiffs.

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PLAINTIFF'S FIRST AMENDED FINAL WITNESS LIST

With consent of Defendants and pursuant to Paragraph 4 of the Court's [DE 16] November 4, 2020 Scheduling Order, Plaintiff ("INO") discloses to Defendants ("DNB") the following list, which constitutes a full good-faith disclosure of each witness who is both known to Plaintiff and intended at this time to be called at trial, subject to witness availability:

Name,	Synopsis of Expected Testimony
Denny Warnick	All issues raised in complaint, including INO marketing efforts, development and

	implementation of trade dress, investigation of DNB
Michelle Guzman	INO marketing efforts and spending
Jeff Dreher	Sale of INO merchandise to, inter alia, Michigan
Carl Van Fleet (provisionally, subject to availability/health)	INO operations, trade dress, promotional activity
INO keeper of records	Authentication of any INO documents to which the parties do not stipulate, such as, inter alia, investigation records of DNB, documents from prior litigation involving INO
Scott Lewis	Results of investigation demonstrating actual confusion
Isabella Cunningham	Expert witness who will testify in support of her surveys concerning secondary meaning and likelihood of confusion
Scott Hoel	Witness' perception of secondary meaning in the INO Law Trade Dress, of similarity between the parties' decors, and of actual confusion, as expressed in part through social media
Lyle Vinatieri	Witness' perception of secondary meaning in the INO Law Trade Dress, of similarity between the parties' decors, and of actual confusion, as expressed in part through social media
Patricia Rodriguez	Witness' perception of secondary meaning in the INO Law Trade Dress, of similarity between the parties' decors, and of actual confusion, as expressed in part through social media
Bryce Bingham	Witness' perception of secondary meaning in the INO Law Trade Dress, of similarity between the parties' decors, and of actual confusion, as expressed in part through social media
Austin Zacharias	Witness' perception of secondary meaning in the INO Law Trade Dress, of similarity between the parties' decors, and of actual

	confusion, as expressed in part through social media
Dana Robinson	Witness' perception of secondary meaning in the INO Law Trade Dress, of similarity between the parties' decors, and of actual confusion, as expressed in part through social media
Panda Thagreat	Witness' perception of secondary meaning in the INO Law Trade Dress, of similarity between the parties' decors, and of actual confusion, as expressed in part through social media
かいかい (KaiKai) (see 2d Am. Comp. ¶32.b)	Witness' perception of secondary meaning in the INO Law Trade Dress, of similarity between the parties' decors, and of actual confusion, as expressed in part through social media
Jesse D. (see 2d Am. Comp. ¶32.c)	Witness' perception of secondary meaning in the INO Law Trade Dress, of similarity between the parties' decors, and of actual confusion, as expressed in part through social media
Kasey W. (see 2d Am. Comp. ¶32.c)	Witness' perception of secondary meaning in the INO Law Trade Dress, of similarity between the parties' decors, and of actual confusion, as expressed in part through social media
Kevin Reynolds	Witness' perception of secondary meaning in the INO Law Trade Dress, and of similarity between the parties' decors
Matt Solmon	Witness' perception of secondary meaning in the INO Law Trade Dress
Jessica Grasl	Witness' perception of secondary meaning in the INO Law Trade Dress
Jathan Floren	Witness' perception of secondary meaning in the INO Law Trade Dress
Michelle Todd	Witness' perception of secondary meaning in the INO Law Trade Dress

Mark Warshaw	Witness' perception of secondary meaning in the INO Law Trade Dress
Robert McLain	Witness' perception of secondary meaning in the INO Law Trade Dress
John D. Sizemore	Witness' perception of secondary meaning in the INO Law Trade Dress
Kevin Henrichson	Witness' perception of secondary meaning in the INO Law Trade Dress
Mark S. Lamouruex	Witness' perception of secondary meaning in the INO Law Trade Dress
Mariana Prado Anaya	Witness' perception of secondary meaning in the INO Law Trade Dress
Maximiliano Prado Anaya	Witness' perception of secondary meaning in the INO Law Trade Dress
Philip Alexander Murray Hootsmans	Witness' perception of secondary meaning in the INO Law Trade Dress
Briana Chronister	Witness' perception of secondary meaning in the INO Law Trade Dress
Favio Rosendo Prado	Witness' perception of secondary meaning in the INO Law Trade Dress
Martha Eugenia Anaya Prado	Witness' perception of secondary meaning in the INO Law Trade Dress
Corey Gwin (see INO000058)	Witness' perception of secondary meaning in the INO Law Trade Dress
Joseph J. (see INO 000053)	Witness' perception of secondary meaning in the INO Law Trade Dress
Author of other social media account produced in discovery	Strength of INO secondary meaning and customer devotion
Justin Dalenberg	Defendants' infringing activities and the likelihood of confusion caused by them
Joel Dalenberg	Defendants' infringing activities and the likelihood of confusion caused by them
Griffin Zotter	Defendants' infringing activities and the likelihood of confusion caused by them
Ken Heers	Defendants' infringing activities and the likelihood of confusion caused by them
John Burtka	Defendants' infringing activities and the likelihood of confusion caused by them

Gracie Lou Fetters	Defendants' infringing activities and the likelihood of confusion caused by them
James Johnson	Defendants' infringing activities and the likelihood of confusion caused by them

In addition, Plaintiff reserves the right to call any of the following:

- Other representatives of the parties with similar information.
- Any expert witness called or consulted by any of the parties to this lawsuit, including any rebuttal expert witnesses.
- Keeper of the records of the parties to this lawsuit or of any documents that have been disclosed throughout the course of discovery.
- All witnesses listed on any preliminary or final witness list filed by any of the parties to this lawsuit.
- All persons identified in any initial disclosure by any party to this lawsuit.
- All necessary rebuttal witnesses, including rebuttal expert witnesses.
- Any person whose name was disclosed in the course of discovery (whether by deposition, interrogatory, request for admission, any document disclosed throughout the course of discovery, or otherwise).
- Any person whose deposition was taken throughout the course of discovery.
- Any person providing an affidavit or declaration in support of any party to this lawsuit.
- Any person who appears in any pleading of record.

Respectfully submitted,

Dated: July 28, 2021

By: /s/ Brian D. Wassom

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CERTIFICATE OF SERVICE

I hereby certify that on July 28, 2021, I electronically filed the foregoing paper via the CM/ECF system.

By: /s/ Brian D. Wassom